

an order from the Commission. In passing upon applications under rule 17d-1, the Commission considers whether the company's participation in the joint transaction is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

3. Applicants state that allowing co-investment in portfolio companies by the Company, MSMF and MSC will increase favorable investment opportunities for the Company and MSMF. The Co-Investment Program has been approved by the Board and the Required Majority on the basis that it would be mutually advantageous for the Company and MSMF to have the additional capital from MSC available to meet the funding requirements of attractive investments in portfolio companies.

4. Applicants state that the formulae for the allocation of co-investment opportunities among the Company and MSMF on the one hand and MSC on the other, and the protective conditions set forth below will ensure that the Company will be treated fairly. Applicants state that the proposed relief is consistent with rule 17d-1 in that the participation of the Company and MSMF will not be on a basis different from or less advantageous than that of MSC.

#### Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each time the Investment Adviser considers an investment for MSC, the Investment Committee, for the Company, and the Investment Adviser, for MSMF, will make an independent determination of the appropriateness of the investment for the Company and MSMF.

2. (a) If the Investment Committee, for the Company, and the Investment Adviser, for MSMF, deem that each entity's participation in the investment is appropriate, then such investment will be made pursuant to the Relative Allocation Percentages, unless either the Investment Committee or the Investment Adviser determines that investment pursuant to the Relative Allocation Percentages is not appropriate for that investment. The Relative Allocation Percentages will be determined by both the full Board and the Required Majority in advance and will be based upon the relative total capital of the Company and MSMF, on the one hand, and MSC, on the other hand (total capital being equal to raised

equity plus available debt). The Relative Allocation Percentages will be approved each quarter, or as necessary or appropriate, between quarters, by both the full Board and the Required Majority, and may be adjusted, for subsequent transactions, in their sole discretion for any reason, including, among other things, changes in the relative aggregate capital of the Company and MSMF vis-à-vis the capital of MSC.

(b) If the Investment Committee, for the Company, and the Investment Adviser, for MSMF, deem that each entity's participation in the Co-Investment Transaction is appropriate, but that investment pursuant to the Relative Allocation Percentages is not appropriate, then the Investment Committee, for the Company, and the Investment Adviser, for MSMF, will recommend an appropriate level of investment for each entity. If the aggregate amount recommended by the Investment Committee, for the Company, and the Investment Adviser, for MSMF, to be invested in such Co-Investment Transaction, together with the amount proposed to be invested by MSC in the same transaction, exceeds the amount of the investment opportunity, the amount proposed to be invested by each such party will be allocated among them pro rata based on the ratio of the Company's and MSMF's total assets, on one hand, and MSC's total assets, on the other hand, to the aggregated total assets of the three parties, up to the amount proposed to be invested by each. The Investment Adviser will provide the Required Majority with information concerning MSC's total assets to assist the Required Majority with their review of the Company's and MSMF's investments for compliance with these allocation procedures. After making the determinations required in this paragraph (b), the Investment Committee and the Investment Adviser will distribute written information concerning the Co-Investment Transaction, including the amount proposed to be invested by MSC, to the Independent Directors for their consideration. Outside of the Relative Allocation Percentages, the Company and MSMF will co-invest with MSC only if, prior to the Company's and MSC's participation in the Co-Investment Transaction, a Required Majority concludes that:

(i) The terms of the transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching of the Company or its stockholders or MSMF on the part of any person concerned;

(ii) The transaction is consistent with (A) The interests of the stockholders of the Company; and

(B) The Company's investment objectives and strategies (as described in the Company's registration statements on Form N-2 and other filings made with the Commission by the Company under the Securities Act of 1933, as amended ("Securities Act"), reports filed by the Company with the Commission under the Securities Exchange Act of 1934, as amended, and the Company's reports to stockholders);

(iii) The investment by MSC would not disadvantage the Company or MSMF, and participation by the Company and MSMF is not on a basis different from or less advantageous than that of MSC; provided, that if MSC, but not the Company or MSMF, gains the right to nominate a director for election to a portfolio company's board of directors or the right to have a board observer or any similar right to participate in the governance or management of the portfolio company, such event shall not be interpreted to prohibit the Required Majority from reaching the conclusions required by this condition (2)(b)(iii), if

(A) The Required Majority shall have the right to ratify the selection of such director or board observer, if any, and

(B) The Investment Adviser agrees to, and does, provide, periodic reports to the Company's Board with respect to the actions of such director or the information received by such board observer or obtained through the exercise of any similar right to participate in the governance or management of the portfolio company; and;

(iv) The proposed investment by the Company and MSMF will not benefit the Investment Adviser or MSC or any affiliated person of either of them (other than the Company, MSMF, and MSC), except to the extent permitted under sections 17(e) and 57(k) of the Act.

3. The Company and MSMF have the right to decline to participate in any Co-Investment Transaction or to invest less than the amount proposed.

4. Except for follow-on investments made pursuant to condition 7 below, the Company and MSC will not invest in any portfolio company in which MSC or any affiliated person of MSC is an investor.

5. The Company and MSMF will not participate in any Co-Investment Transaction unless the terms, conditions, price, class of securities to be purchased, settlement date, and registration rights will be the same for the Company and MSMF as for MSC. The grant to MSC, but not the Company